IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.826 OF 2006

Prabhakar Sadhu Kashid & ors. Petitioners

versus

Rangnath Dhondiba Kashid
and others Respondents

Mr.N.P.Deshpande for petitioners.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 15th February 2006

PC :

1. The petitioners are aggrieved by an order passed by the Trial Court below Exhibit-38 in Special Civil Suit No.211 of 2005.

2. The petitioners are original defendants in this civil suit. The original plaintiffs applied for interim reliefs therein and an application was made (Exhibit-38) invoking the provisions of Section 9(A) of the CPC, 1908 as applicable in the State of Maharashtra. The preliminary issue of jurisdiction was framed and the Trial Judge has answered it against the petitioners and held

that it has jurisdiction to entertain and try the suit in question.

3. Shri Deshpande appearing in support of this petition states that petitioners are desirous of withdrawing the application (Exhibit-38) based upon which issue of jurisdiction was raised and tried as a preliminary issue. He submits that liberty be granted to the petitioners to raise this issue in their pleadings and upon such issues being raised request the Trial Court to frame the same as one of the issues in the suit.

4. The petitioners are allowed to withdraw application Exhibit-38 with liberty to file a fresh application for framing the issue of jurisdiction as one of the issues during the course of the trial of the abovementioned special civil suit. Petition disposed of.

(S.C.DHARMADHIKARI, J.)